THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No. 24227 OF 2005

06-02-2006

Between:

Matrusri Education Society, Saidabad, Hyderabad, rep. by its Secretary & Another.

……Petitioners

And

Municipal Corporation of Hyderabad, rep. by its Special Officer & others.

…..Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No. 24227 OF 2005

ORDER : (Per Hon'ble Sri Bilal Nazki, J)

The case of the petitioners is that they are the charitable

institutions and therefore, in terms of Section 202 (b) of The Hyderabad Municipal Corporations Act, 1955 (hereinafter referred to as 'the Act'), the buildings owned by them are not exigible to the tax.

Section 202 (b) of the Act originally read as, *"Buildings and lands or portions thereof solely occupied and used for public worship or for a charitable or educational purpose"*. This was amended in the year 1989 by Act 20 of 1989, which became effective from 1st November, 1990. The words '*or educational*' are omitted. Sub-section (bb) of Section 202 makes educational institutions up to 10th class exempt from payment of tax.

The petitioners made a representation before the respondents that since they were running charitable institutions, tax could not be levied. To this, a letter was sent to the petitioners on 23.9.2005, informing the petitioners that their institutions would not come within the exemption, as the institutions were charging fee from the students. The educational institutions can be charitable or non-charitable, which will have to be decided on facts in each case and this Court, in these proceedings under Article 226 of the Constitution, would not be in a position to come to a conclusion whether the institutions run by the Petitioners-Society are charitable or non-charitable. This has been decided by the respondents by letter dated 23.9.2005 and if petitioners are aggrieved of this letter, they could have filed appeal under Section 282 of the Act, before the Chief Judge, City Small Causes Court, and in appeal, the appellate Court would be in a position to appreciate, on the basis of evidence produced, whether the institutions are charitable or non-charitable.

Therefore, in our view, this writ petition is not maintainable, which is accordingly dismissed. However, we grant liberty to the petitioners to file an appeal if so advised, within four weeks from today. No order as to costs.

(BILAL NAZKI, J)

6th February 2006

(G.CHANDRAIAH, J)

ajr